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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,653	04/04/2006	Richard Kulak	60469254OT5282	7623
64779	7590	01/15/2008	EXAMINER	
CARLSON GASKEY & OLDS 400 W MAPLE STE 350 BIRMINGHAM, MI 48009			KRUER, STEFAN	
		ART UNIT	PAPER NUMBER	
		3654		
		MAIL DATE	DELIVERY MODE	
		01/15/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/574,653	KULAK ET AL.
	Examiner	Art Unit
	STEFAN KRUER	3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 5 November 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1, 3, 5 - 10, 12 - 14 and 16 - 22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 3, 5 - 10, 12 - 14 and 16 - 22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 4 April 2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 3, 5 – 9, 10, 12 – 14 and 16 - 22** are rejected under 35 U.S.C. 102(b) as being anticipated by Fujita (5,289,902, US Patent of JP-05116869).

**Re: Claims 1, 3 and 5 – 9,** Fujita discloses a roller guide device (Fig. 2) for use in an elevator system, comprising:

- A base (8),
- At least one roller (10) supported by the base such that the roller is rotatable about a roller axis (11) and moveable to the base in at least one direction perpendicular to the roller axis,
- A damper (20) that has a selectively variable stiffness and dampens the relative movement of the roller, the damper comprising a fluid (22) having a selectively variable viscosity for varying the stiffness of the damper; and
- A controller (25, Fig. 3) that automatically increases the stiffness of the damper when an associated elevator car (5) is stationary at a landing and decreases the stiffness of the damper when the associated car is moving (Col. 7, Lines 3 – 13 and Col. 8, Lines 53 – 60),
- An elevator car motion indicator (24) in communication with the controller and wherein the controller changes the damper stiffness responsive to a detected level of motion (Col. 4, Line 9),
- Wherein the damper fluid comprises a magneto-rheological fluid (Col. 3).
- A field generator (23) that generates a field that changes a viscosity of the magneto-rheological fluid (Col. 4, line 1),
- The controller (25) controls the field generator, and

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- An indicator (24) that provides an indication of an elevator car vibration to the controller and wherein the controller controls the damper stiffness based upon an amount of vibration.

**Re: Claims 10 and 12 – 13,** Fujita discloses:

- An elevator system (Fig. 1),
- a car frame (5a),
- At least one roller (10) supported for vertical movement with the frame, and rotatable movement as well as lateral movement relative to the frame,
- A selectively variable stiffness damper (20) that dampens the relative movement of the roller, the damper comprising a fluid (22) having a selectively variable viscosity for varying the stiffness of the damper; and
- A controller (25, Fig. 3) that automatically increases the stiffness if the damper when an associated elevator car (5) is stationary at a landing and decreases the stiffness of the damper when the associated car is moving.
- An vibration detector (24) that provides an indication of a level of car frame elevator car vibration to the controller and wherein the controller controls the damper stiffness based upon the indication of the level of car frame vibration.
- Wherein the damper fluid comprises a magneto-rheological fluid (Col. 3).

**Regarding Claims 14 and 16 - 22,** the components comprising the device of Claims 10 and 12 - 13 would necessarily have to interact in order for the device to function. It would have been obvious to perform all the method steps of claims 10 and 12 - 13 when using the device of Fujita, in a usual and expected fashion, in as much as the method claims recite no limiting steps beyond using each of the components.

With respect to **Claims 20 - 21,** Fujita discloses wherein the controller receives information from a machine controller (24) regarding whether the elevator car is stationary or moving and the controller automatically increases or decreases the stiffness of the damper responsive to the information.

With further respect to **Claim 17,** Fujita discloses a plurality of rollers and associated dampers (Fig. 1).

**With further respect to Claims 19 - 22,** In reference to the claim language referring to receiving information from a machine controller, intended use and other types of functional language must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. *In re Casey*, 152 USPQ 235 (CCPA 1967); *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

### ***Response to Arguments***

Applicant's arguments as filed 5 November 2007 with respect to **Claim 1** have been fully considered but they are not persuasive.

Again, applicant has primarily argued that the reference of Fujita does not address the damping of vibrations associated with an elevator car when at rest (at a landing) and when in motion; however, applicant's arguments are negated by Fujita.

First, with respect to the recitation, "... an elevator car is stationary ... or is moving...", examiner makes comment that vibrations are motions. Secondly, with respect to applicant's arguments that the vibrations of Fujita are attributable to his elevator car moving along his guide rails, for which the applicant has cited numerous excerpts from the disclosure of Fujita, the source of vibrations of Fujita does not contest the claim language of the instant invention. In addition, the disclosure of the instant invention attributes the movement along guide rails as the source of vibration.

Furthermore and alternatively, applicant does not acknowledge that the vibration damping of Fujita is by an automatic system that responds to vibrations during the entirety of the elevator car's travel. Fujita does not disclose any cessation/override of his automatic system when his car is stationary or in motion. Additionally, the term "automatic" does not further significantly limit the claim language in that something automatic is merely a linking between two elements, wherein the action by one leads to an action by the other.

As reviewed in previous office actions, Fujita describes in Column 7, commencing with Line 3, the continuous measurement of vibration frequency and amplitude throughout the operation of the elevator car, whereby detected levels of high frequency, low amplitude vibration, as measured and compared to set values by a controller (comparator), results in the reduction of damping force, the latter resulting from a lowering of electrical current to an electric coil and thereby a decrease in flux strength applied to the magneto-rheological fluid (Col. 4, line 35 – 55). Conversely, the presence of low frequency, high amplitude vibration yields an increase in damping force, the latter by an increase in the electrical current to an electric coil and the consequential increase in flux strength applied to a magneto-rheological fluid.

The states of high frequency, low amplitude vibration and low frequency, high amplitude vibration may correlate to the elevator car in motion and at rest, respectively, whereby the latter state may be indicative of the horizontal movement and change in payload attributable to passengers embarking/disembarking the elevator car.

Therefore, neither applicant's arguments nor the newly cited or amended claim language overcame the rejection(s) based on the prior art of record.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fuller et al (6,216,824) is cited for reference of a machine controller that controls whether the car frame is stationary at a landing or moving, the controller receiving information from the machine controller indicating whether the car frame is stationary at a landing or moving and wherein the controller automatically increases or decreases the stiffness responsive to the information, for feature of enhanced responsiveness to oscillations (Col. 1, L. 38 – Col. 2, L. 9).

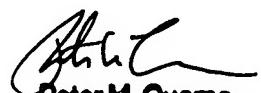
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571.272.6856. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

SHK

11 January 2008



Peter M. Cuomo  
Supervisory Patent Examiner  
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